



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS  
UNITED STATES PATENT AND TRADEMARK OFFICE  
P.O. Box 1450  
ALEXANDRIA, VA 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

*In re* Patent No. SIM ET AL.  
Issue Date: November 19, 2002  
Appl. No.: 09/451,527  
Filed: December 01, 1999  
For: 09/451,527

:  
:  
: **DECISION DENYING**  
: **PETITION**  
: 37 CFR 1.324  
:  
:  
:  
:  
:

This is a decision on the petition filed 25 February 2004 to correct inventorship under 37 CFR 1.324.

The petition is denied.

The petition filed 25 February 2004 does not provide a statement from Gek-Kee Sim agreeing to the change of inventorship or that there is no disagreement in regard to the requested change, pursuant to 37 CFR 1.324 (b)(2).

The Office also acknowledges the petition under 37 CFR 1.47 (a). The petition is dismissed as being inapposite to the purposes of 37 CFR 1.324.

37 CFR 1.47 (a) speaks to the acceptance of patent applications with inventors who refuse to sign the oath or declaration and is not applicable to change of inventorship of a patent. The declaration by Richard Stern submitted in support of the petition under 36 CFR 1.47(a), clearly indicates that petitioners cannot obtain a signed statement from Gek-Kee Sim.

35 U.S.C. § 256 permits correction of non-joinder or misjoinder by the USPTO only if all parties *i.e.*, all inventors and assignees consent. In the absence of the consensus of all parties, the USPTO lacks jurisdiction and judicial correction is required. See MCV Inc v. King-Seeley Thermos Co., 870 F.2d 1568, 10 USPQ2d 1287, 1289 (Fed. Cir. 1989).

Remy Yucel, Ph.D.  
Supervisory Patent Examiner  
Art Unit 1636  
Technology Center 1600

HESKA CORPORATION  
INTELLECTUAL PROPERTY DEPT.  
1613 PROSPECT PARKWAY  
FORT COLLINS, CO 80525